

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

)

)

WILLIAM GREGORY CHERNOFF, M.D.) **File No. 16-2008-190308**

)

Physician's and Surgeon's)

Certificate No. A 51787)

)

Respondent.)

)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 30, 2009 **.**

IT IS SO ORDERED December 31, 2008 **.**

MEDICAL BOARD OF CALIFORNIA

By: Shelton Duruisseau
Shelton Duruisseau, Ph.D., Chair
Panel A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 SUSAN K. MEADOWS, State Bar No. 115092
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5552
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 16-2008-190308

13 **William Gregory Chernoff, M.D.**
830 Second Street
14 Santa Rosa, CA, 95404

**STIPULATION FOR SETTLEMENT
AND DISCIPLINARY ORDER**

15 Address of Record

16 Physician's and Surgeon's
Certificate No. A 51787

17 Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. At the time that this action was filed, Barbara Johnston, (Complainant) was the
23 Executive Director of the Medical Board of California. She brought this action solely in her
24 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of
25 the State of California, by Susan K. Meadows, Deputy Attorney General.

26 2. Respondent, William Gregory Chernoff, M.D., (hereinafter "respondent") is
27 represented by Arthur H. Barens, Attorney at Law, 10209 Santa Monica Blvd., Los Angeles, CA
28 90067.

1 3. On or about April 12, 1993, Physician's and Surgeon's Certificate No. A 51787
2 was issued by the Board to William Gregory Chernoff, M.D. (hereinafter "respondent"). Said
3 certificate is renewed and current with an expiration date of October 31, 2010.

4 **JURISDICTION**

5 4. Accusation No. 12 2008 190308 ("Accusation") was filed before the Medical
6 Board of California, Department of Consumer Affairs, (hereinafter "Board") and is currently
7 pending against respondent. The Accusation and all other statutorily required documents were
8 properly served on respondent. Respondent timely filed his Notice of Defense contesting the
9 Accusation. A copy of the Accusation is attached as Exhibit A and incorporated herein by
10 reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, understands, and has discussed the charges and
13 allegations in Accusation with his attorney. Respondent has also carefully read, understands, and
14 has discussed the effects of this Stipulated Settlement and Disciplinary Order with his attorney.

15 6. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and judicial review; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each
22 and every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits that cause for discipline exists against his California Medical
25 license under sections 141 and 2305 of the California Business and Professions Code.

26 **CONTINGENCY**

27 9. This stipulation shall be subject to approval by the Board. Respondent
28 understands and agrees that counsel for Complainant and Board staff may communicate directly

1 with the Board regarding this stipulation and settlement, without notice to or participation by
2 respondent or his attorney. By signing the stipulation, respondent understands and agrees that he
3 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
5 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
7 be disqualified from further action by having considered this matter.

8 10. The parties understand and agree that facsimile copies of this Stipulated
9 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
10 force and effect as the originals.

11 11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein
12 to be an integrated writing representing the complete, final, and exclusive embodiment of the
13 agreements of the parties.

14 12. In consideration of the foregoing admissions and stipulations, the parties agree
15 that the Board may, without further notice or formal proceeding, issue and enter the following
16 Disciplinary Order:

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate A 51787
19 issued to respondent William Gregory Chernoff, M.D., is revoked. However, the revocation is
20 stayed and respondent is placed on probation for three (3) years on the following terms and
21 conditions.

22 1. **CLINICAL TRAINING PROGRAM:**

23 Respondent shall successfully complete a clinical training or educational program
24 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
25 University of California - San Diego School of Medicine ("Program") approved by the Medical
26 Board. On April 10-11, 2006, respondent voluntarily submitted and successfully completed a
27 competency evaluation at the Center for Personalized Education for Physicians (CPEP). In
28 addition, respondent has voluntarily entered into a structured education plan at his expense with

1 CPEP to further his education and reassure this Board of his continued competency. CPEP
2 prepared an individualized educational plan which began in January 2008. Respondent's
3 participation in and successful completion of the CPEP program shall be accepted by the Medical
4 Board as fulfillment of this condition.

5 2. **PRACTICE MONITOR:**

6 Within 30 calendar days of the effective date of this Decision, respondent shall submit to
7 the Board or its designee for prior approval as a practice monitor, the name and qualifications of
8 one or more licensed physicians and surgeons whose licenses are valid and in good standing, and
9 who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall
10 have no prior or current business or personal relationship with respondent, or other relationship
11 that could reasonably be expected to compromise the ability of the monitor to render fair and
12 unbiased reports to the Board, including but not limited to any form of bartering, shall be in
13 respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall
14 pay all monitoring costs.

15 The Board or its designee shall provide the approved monitor with a copy of the Decision
16 and Accusation, and a proposed monitoring plan.

17 Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring
18 plan, the monitor shall submit a signed statement that the monitor has read the Decision and
19 Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed
20 monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall
21 submit a revised monitoring plan with the signed statement.

22 Within 60 calendar days of the effective date of this Decision, and continuing throughout
23 probation, respondent's prescribing practices shall be monitored by the approved monitor. As part
24 of the monitoring plan, the monitor shall review, at random, a minimum of (10) ten patient records
25 prior to the submission of every quarterly written report to the Board. Respondent shall make all
26 records, including, but not limited to, the controlled substance log described below, available for
27 immediate inspection and copying on the premises by the monitor at all times during business hours
28 and shall retain the records for the entire term of probation.

1 The monitor shall submit a quarterly written report to the Board or its designee which
2 includes an evaluation of respondent's performance, indicating whether respondent's medical
3 practices and prescribing practices are within the standards of practice of medicine, and whether
4 respondent is practicing medicine safely.

5 It shall be the sole responsibility of respondent to ensure that the monitor submits the
6 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
7 preceding quarter.

8 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days
9 of such resignation or unavailability, submit to the Board or its designee, for prior approval, the
10 name and qualifications of a replacement monitor who will be assuming that responsibility
11 within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within
12 60 days of the resignation or unavailability of the monitor, respondent shall be suspended from
13 the practice of medicine until a replacement monitor is approved and prepared to assume
14 immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3
15 calendar days after being so notified by the Board or designee.

16 In lieu of a monitor, respondent may participate in a professional enhancement program
17 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
18 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
19 chart review, semi-annual practice assessment, and semi-annual review of professional growth
20 and education. Respondent shall participate in the professional enhancement program at
21 respondent's expense during the term of probation.

22 Failure to maintain all records, or to make all appropriate records available for immediate
23 inspection and copying on the premises, or to comply with this condition as outlined above is a
24 violation of probation.

25 3. **CONTROLLED SUBSTANCES- MAINTAIN RECORDS**
26 **AND ACCESS TO RECORDS AND INVENTORIES**

27 Respondent shall maintain a record of all controlled substances ordered, prescribed,
28 dispensed, administered, or possessed by respondent, and any recommendation or approval

1 which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the
2 personal medical purposes of the patient within the meaning of Health and Safety Code section
3 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the
4 date; 3) the character and quantity of controlled substances involved; and 4) the indications and
5 diagnosis for which the controlled substances were furnished.

6 Respondent shall keep these records in a separate file or ledger, in chronological order. All
7 records and any inventories of controlled substances shall be available for immediate inspection and
8 copying on the premises by the Board or its designee at all times during business hours and shall be
9 retained for the entire term of probation.

10 Failure to maintain all records, to provide immediate access to the inventory, or to make all
11 records available for immediate inspection and copying on the premises, is a violation of probation.

12 4. **SOLO PRACTICE:**

13 Respondent is prohibited from engaging in the solo practice of medicine.

14 5. **ETHICS COURSE:**

15 Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a
16 course in ethics, at respondent's expense, approved in advance by the Board or its designee. The
17 course must meet the requirements of 16 California Code of Regulations section 1358.1. Respondent
18 shall successfully complete the course within 20 (twenty months) of the effective date of this Decision

19 An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior
20 to the effective date of the Decision may, in the sole discretion of the Medical Board or its designee,
21 be accepted toward the fulfillment of this condition if the course would have been approved by the
22 Medical Board or its designee had the course been taken after the effective date of this Decision.

23 Respondent shall submit a certification of successful completion to the Medical Board or its
24 designee not later than 15 calendar days after successfully completing the course, or not later than 15
25 calendar days after the effective date of the Decision, whichever is later.

26 6. **PRESCRIBING PRACTICES COURSE:**

27 Respondent shall successfully complete a prescribing practices course approved by the
28 Medical Board. On March 26 through March 28, 2003, respondent voluntarily and successfully

1 completed a course entitled "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls" at
2 the Center for Professional Health, Vanderbilt University Medical Center. Respondent's participation
3 in and successful completion of the Prescribing Controlled Drugs Course through Vanderbilt Medical
4 Center shall be accepted by the Medical Board as fulfillment of this condition.

5 7. **MEDICAL RECORD KEEPING COURSE:**

6 Within 60 calendar days of the effective date of this decision, respondent shall enroll in a
7 course in medical record keeping, at respondent's expense, approved in advance by the Board or its
8 designee. Failure to successfully complete the course during the first 6 months of probation is a
9 violation of probation.

10 A medical record keeping course taken after the acts that gave rise to the charges in the
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or
12 its designee, be accepted towards the fulfillment of this condition if the course would have been
13 approved by the Board or its designee had the course been taken after the effective date of this
14 Decision.

15 Respondent shall submit a certification of successful completion to the Board or its designee
16 not later than 15 calendar days after successfully completing the course, or not later than 15 calendar
17 days after the effective date of the Decision, whichever is later.

18 8. **EDUCATION COURSE:**

19 Within 60 calendar days of the effective date of this Decision, and on an annual basis
20 thereafter, respondent shall submit to the Board or its designee for its prior approval educational
21 program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation.
22 The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or
23 knowledge and shall be Category I certified, limited to classroom, conference, or seminar settings.
24 The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to
25 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
26 completion of each course, the Board or its designee may administer an examination to test
27 respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of
28 CME of which 40 hours were in satisfaction of this condition.

1

2

3

10

11

12

13

14

17

18

20

22

23

28

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

6. **INTERVIEW WITH THE BOARD, OR ITS DESIGNEE:**

Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee, upon request at various intervals, and either with or without prior notice throughout the term of probation.

7. **RESIDING OR PRACTICING OUT-OF-STATE:**

In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

Respondent's license shall be automatically canceled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be canceled as long as respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

Any respondent disciplined under Business and Professions Code sections 141(a) or 2305

(another state discipline) may petition for modification or termination of penalty: 1) if the other state's discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from the effective date of the California discipline.

8. **FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT:**

In the event respondent resides in the State of California and for any reason respondent stops practicing medicine in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically canceled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

9. **COMPLETION OF PROBATION:**

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

10. **VIOLATION OF PROBATION:**

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against

1 respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and
2 the period of probation shall be extended until the matter is final.

3 11. LICENSE SURRENDER:

4 Following the effective date of this Decision, if respondent ceases practicing due to
5 retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation,
6 respondent may request the voluntary surrender of respondent's license. The Board reserves the right
7 to evaluate respondent's request and to exercise its discretion whether or not to grant the request, or to
8 take any other action deemed appropriate and reasonable under the circumstances. Upon formal
9 acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and
10 wall certificate to the Board or its designee and respondent shall no longer practice medicine.
11 Respondent will no longer be subject to the terms and conditions of probation and the surrender of
12 respondent's license shall be deemed disciplinary action. If respondent re-applies for a medical
13 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

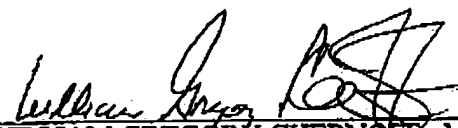
14 12. PROBATION MONITORING COSTS:

15 Respondent shall pay the costs associated with probation monitoring each and every year of
16 probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be
17 payable to the Medical Board of California and delivered to the Board or its designee no later than
18 January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a
19 violation of probation.

20 ACCEPTANCE


21 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the
22 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
23 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and with the
24 advice of counsel and agree to be bound by the Decision and Order of the Medical Board of
25 California.

26 DATED: 11/24/08

27 
28 WILLIAM GREGORY CHERNOFF, M.D.
Respondent

1 I concur in the stipulation.

2 DATED: November 24, 2008



4 ARTHUR H. BARENS
5 A Professional Corporation

6 Attorney for Respondent

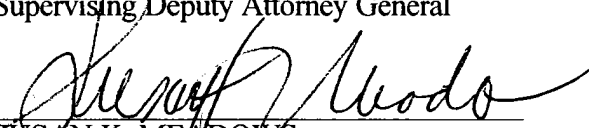
7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10 DATED: 12-02-08

11 EDMUND G. BROWN JR., Attorney General
12 of the State of California

13 JOSE R. GUERRERO
14 Supervising Deputy Attorney General

15 
16 SUSAN K. MEADOWS
16 Deputy Attorney General

17 Attorneys for Complainant

18 Exhibit A: Accusation

EXHIBIT A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 SUSAN K. MEADOWS, State Bar No. 115092
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5552
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **William Gregory Chernoff, M.D.**
830 Second Street
14 Santa Rosa, CA, 95404

15 Address of Record

16 Physician's and Surgeon's
Certificate No. A 51787

17 Respondent.

Case No. 16-2008-190308

ACCUSATION

19 The Complainant alleges:

20 **PARTIES**

21 1. Complainant, Barbara Johnston, is the Executive Director of the Medical
22 Board of California (hereinafter the "Board") and brings this accusation solely in her official
23 capacity.
24

25 2. On or about April 12, 1993, Physician's and Surgeon's Certificate No. A
26 51787 was issued by the Board to William Gregory Chernoff, M.D. (hereinafter "respondent").
27 This certificate is renewed and current with an expiration date of October 31, 2008.
28

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 4, 20 08
BY Alie Mae ANALYST

JURISDICTION

3. This accusation is brought before the Medical Board of California under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board^{1/} may revoke, suspend for a period of not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring if probation is imposed.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein."

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state,

1. Cal. Bus. & Prof. Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, sections 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 an agency of the federal government, or another country."

2 4. Respondent is subject to discipline within the meaning of section 2305
3 and/or section 141 of the Code as more particularly set forth herein below.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Discipline, Restriction, or Limitation Imposed by Another State)

6 5. On or about March 12, 2008, the Medical Licensing Board of Indiana
7 (hereinafter "Indiana Board") issued Findings of Fact, Ultimate Findings of Fact, Conclusions of
8 Law and an Order whereby respondent's medical license was placed on probation for three years
9 with various conditions, including, but not limited to, the following: Respondent shall complete
10 an Educational Intervention Plan administered by the Center for Personalized Education for
11 Physicians; an independent physician, referred to as a Preceptor, will review respondent's patient
12 charts; respondent will implement a charting system and medical record policy; if respondent's
13 Indiana controlled substance registration is reinstated, he will not engage in the treatment of pain,
14 unless it is related to surgery or procedures that he provides; respondent will not prescribe, order,
15 dispense or administer controlled substances to himself, family members or friends; respondent
16 agrees to a review of his controlled substance prescribing; respondent agrees to adopt a written
17 policy for his office staff regarding the prescribing of controlled substances; respondent will not
18 treat chronic pain but will refer patients to a physician who specializes in the treatment of pain,
19 however, respondent agrees that he will still adopt a written policy regarding the use of
20 controlled substances for the treatment of pain; respondent shall pay a fine in the amount of
21 \$7,500.00; respondent will complete twenty hours of CME in the area of medical record keeping;
22 and, respondent will perform twenty hours of community service.

23 The basis for the Indiana action was as follows. Respondent failed to keep abreast
24 of current professional theory or practice by failing to sufficiently document the medical history
25 of one patient, P1. Respondent failed to keep abreast of current professional theory or practice
26 by failing to sufficiently document his evaluation and treatment of P1 prior to prescribing
27 controlled substances to that patient. Respondent failed to keep abreast of current professional
28 theory or practice by not obtaining copies of the lab tests that were performed to monitor P1's

1 condition, in addition to obtaining verbal reports for the lab result.

2 6. Attached hereto as Exhibit A, and made a part hereof, is a true and correct
3 copy of the Indiana Board Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and
4 Order.

5 7. The action by the Indiana Board regarding respondent's license to practice
6 medicine, as set forth above, constitutes unprofessional conduct and/or grounds for disciplinary
7 action within the meaning of section 2305 of the Code and/or section 141(a) of the Code.
8 Therefore, cause for discipline exists.

9 **PRAYER**

10 **WHEREFORE**, the complainant requests that a hearing be held on the matters
11 herein alleged, and that following the hearing, the Board issue a decision:

12 1. Revoking or suspending Physician's and Surgeon's Certificate Number
13 A 51787 heretofore issued to respondent, William Gregory Chernoff, M.D.;

14 2. Ordering respondent to pay the Board the costs of probation monitoring
15 upon order of the Board; and,

16 3. Revoking, suspending or denying approval of the respondent's authority to
17 supervise physician assistants; and,

18 4. Taking such other and further action as the Board deems necessary and
19 proper.

20 DATED: June 4, 2008.

21
22 
23 **BARBARA JOHNSTON**
24 Executive Director
25 Medical Board of California
26 Department of Consumer Affairs
27 State of California

28 Complainant

27 Exhibit A: Indiana Board Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and
28 Order.

EXHIBIT A



Medical Licensing Board of Indiana

402 West Washington Street, Room W072
Indianapolis, Indiana 46204
Telephone: (317) 234-2060
Fax: (317) 233-4236
Website: www.PLA.IN.gov

Governor Mitchell E. Daniels, Jr.

March 27, 2008

Medical Board of California
Pamela L. Mosher, Analyst
Enforcement Program
2005 Evergreen Street, Suite 1200
Sacramento, California 95818-3831

MEDICAL LICENSING BOARD CERTIFICATION

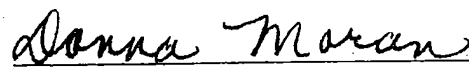
I, Donna Moran, Litigation Specialist, of the Professional Licensing Agency, being duly sworn upon my oath, depose and say:

I certify that the Professional Licensing Agency is the record-keeping agency for the Medical Licensing Board, which is responsible for licensing physicians in the State of Indiana. As Litigation Specialist, I am the keeper of the records of administrative proceedings before the Medical Licensing Board.

I further certify that the following documents are a true and accurate copy of the in the matter of William Gregory Chernoff, M.D.

- NOTICE OF FILING OF AMENDED COMPLAINT
FILED: MARCH 3, 2006
- FINDING OF FACT, ULTIMATE FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER
FILED: MARCH 12, 2008

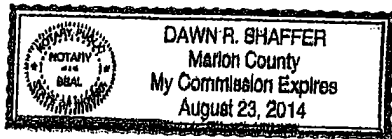
MEDICAL LICENSING BOARD

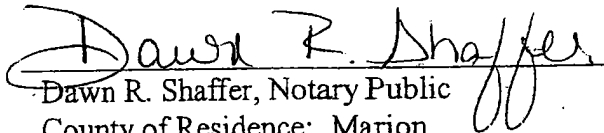


Donna Moran, Litigation Specialist
Professional Licensing Agency

STATE OF INDIANA)
) SS
COUNTY OF MARION)

Donna J. Moran, personally appeared before me, Dawn R. Shaffer acknowledged the foregoing statements as true this 27th day of March 2008.




Dawn R. Shaffer, Notary Public
County of Residence: Marion
Commission Expires: August 23, 2014

BEFORE THE MEDICAL LICENSING BOARD OF INDIANA

STATE OF INDIANA,

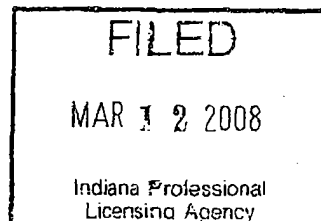
Petitioner,

v.

WILLIAM GREGORY CHERNOFF, M.D.,
Lic. Number: 01040295A,

Dr. Chernoff.

Cause No. 2006 MLB 0003



FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

The Petitioner, the State of Indiana, by Deputy Attorney General Elizabeth E. Kiefner, Division of Consumer Protection ("Petitioner"), and the Dr. Chernoff, William Gregory Chernoff, M.D., ("Dr. Chernoff"), by Counsel Larry A. Mackey, signed an Agreement that purports to resolve all issues involved in the action by the Petitioner before the Medical Licensing Board of Indiana ("the Board") regarding Dr. Chernoff's license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the February 28, 2008, meeting, now finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement as if fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Board approved this Agreement by a vote of 3 in favor, 1 against and 1 abstaining. The Board hereby issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order:

STIPULATED FINDING OF FACTS

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Board pursuant to Indiana Code § 25-1-7 *et seq.*

2. The Board is charged with the duty and responsibility of regulating the practice of medicine pursuant to Ind. Code § 25-22.5-2-7.

3. Dr. Chernoff completed medical school in 1986 in Canada, his native country. Dr. Chernoff's postgraduate training included primary care and specialty practices. During his one-year internship, he worked in a general primary care setting in rural Canada. Dr. Chernoff subsequently completed an otolaryngology residency in Ontario, Canada, with an emphasis in head and neck cancer surgery.

4. Dr. Chernoff first came to Indiana when he was accepted into a head and neck microvascular surgery fellowship. After completing the fellowship, Dr. Chernoff went to California for a fellowship in facial plastic and reconstructive surgery. After completing the second fellowship, Dr. Chernoff chose to return to Indiana. He developed his own practice, and since approximately 1996, he has primarily practiced in the areas of facial and cosmetic surgery.

5. Dr. Chernoff has been licensed to practice medicine in the State of Indiana since 1992. He also holds an active and unrestricted license to practice medicine in the State of California. He has never had a civil malpractice suit filed against him and prior to the Attorney General's Complaint, he had no history of complaints or disciplinary action.

6. Dr. Chernoff has been Board certified by the Royal College of Physicians and Surgeons of Canada since 1992, the American Board of Otolaryngology and Head and Neck Surgery since 1994, and the American Board of Facial, Plastic and Reconstructive Surgery since 1997.

7. On April 5, 2001, patient P1 presented to Dr. Chernoff for a minor office cosmetic procedure. Dr. Chernoff and P1 had been recently introduced by a mutual acquaintance.

8. P1, who emphasized to Dr. Chernoff that he was very concerned about maintaining his privacy, did not complete the patient history form. P1 was the only patient of Dr. Chernoff who has refused to complete the patient history form. Because of P1's privacy concerns, Dr. Chernoff did not document the initial history and physical of P1 with as much detail as Dr. Chernoff customarily included.

9. Following the procedure, Dr. Chernoff prescribed to P1, on a short-term basis, Norco, which was to alleviate the pain caused by the procedure. Dr. Chernoff initially recommended Tylenol for the pain, but agreed to prescribe Norco to P1 after P1 explained that due to his history of pain associated with long standing athletic injuries, Tylenol would not be effective in alleviating his pain.

10. During the April 5, 2001 visit, P1 requested that Dr. Chernoff serve as his personal physician by providing additional cosmetic procedures, and by treating his general medical conditions. P1 also asked Dr. Chernoff to serve as the cosmetic surgeon for P1's spouse and children, and to provide medical services related to P1's business. Dr. Chernoff agreed to serve as P1's personal and family physician, and to provide cosmetic surgery services to personnel at P1's business. Dr. Chernoff and P1 agreed

upon a fixed monthly fee for Dr. Chernoff's services to P1, and agreed that Dr. Chernoff would be compensated for providing services related to P1's business. Despite Dr. Chernoff's request, P1 did not agree to enter into a written contract for Dr. Chernoff's fees.

11. Following the initial visit on April 5, 2001, Dr. Chernoff began providing medical treatment to P1 and his multiple family members on a frequent basis, as previously agreed. Dr. Chernoff's treatment of P1's family involved cosmetic procedures. During the course of treatment, Dr. Chernoff provided P1 with cosmetic services and treated P1's chief complaints of anxiety, fatigue, insomnia, and chronic back pain. Dr. Chernoff did not always document P1's complaints in detail.

12. In the course of his treatment of P1, Dr. Chernoff verified that P1 suffered from chronic back and neck pain caused by long standing athletic injuries. Dr. Chernoff based his conclusion that P1 suffered from chronic pain by examining P1, reviewing P1's complaints and medical history in detail, reviewing MRI studies taken within six months of P1's back and neck, collecting information about P1's history of injuries, and observing his behavior.

13. In the course of treatment, Dr. Chernoff prescribed controlled substances, primarily Norco, to treat P1's pain.

14. Early in the course of treatment, Dr. Chernoff determined that P1 had previously, and over the course of many years, developed a significant tolerance to Norco, which had been used by P1 for pain control previous to Dr. Chernoff's treatment.

15. In May of 2001, Dr. Chernoff suspected that P1 may be in need of treatment for dependence to controlled substances. Dr. Chernoff believed that while P1,

who was physically large, would likely continue to need some form of pain control, a specialist could assist P1 in managing pain, and at the very least, reduce the amount of controlled substances necessary for P1 to achieve adequate pain control. Dr. Chernoff discussed his concerns with P1 and recommended that he seek treatment with a certain pain specialist. P1 agreed to a consultation, but ultimately P1 chose to see a different specialist.

16. On approximately July 18, 2001, P1 informed Dr. Chernoff that he would be entering a treatment program. P1 requested that Dr. Chernoff meet with the physician who was the medical director of the program (hereinafter referred to as the "Medical Director").

17. On July 31, 2001, Dr. Chernoff met at his office with P1 and the Medical Director, who represented to Dr. Chernoff that his program had been "certified by the State of Indiana" for use in conjunction with court systems "in multiple counties."

18. The Medical Director presented Dr. Chernoff with a written plan of treatment ("Treatment Plan"), which included the prescribing of controlled substances to P1 in decreasing amounts for approximately ten weeks. The Treatment Plan was signed by P1 and the Medical Director.

19. The Medical Director explained to Dr. Chernoff that he was a recovering alcoholic who had been rehabilitated and reinstated to practice medicine. The Medical Director asked Dr. Chernoff to participate in P1's treatment because Dr. Chernoff had an existing relationship with P1, and because the Medical Director did not at that time have the authority to prescribe controlled substances. The Medical Director told Dr. Chernoff

that he routinely worked with other physicians when he administered treatment plans because of his inability to prescribe controlled substances.

20. The Medical Director's Treatment Plan provided that the Medical Director would treat P1 for "addictive disease," including any potential withdrawal, that P1 would submit to the Medical Director for weekly urine drug screens, that the pharmacy was notified of the plan, and that Dr. Chernoff would continue to treat P1 for "pain, anxiety, insomnia, and chronic fatigue problems." The Treatment Plan also specified that the Medical Director would maintain an ongoing dialogue with Dr. Chernoff and the pharmacy "to make sure that all treatment providers are in full understanding" relative to P1's progress in treatment and compliance.

21. Dr. Chernoff expressed concern and hesitation to P1 and the Medical Director about the amount of controlled substances he was asked to prescribe at the beginning of the Treatment Plan. Dr. Chernoff had never entered into this type of arrangement before and had never prescribed the amount of controlled substances described at the beginning of the Treatment Plan. The Medical Director assured Dr. Chernoff that he had obtained approval for the Treatment Plan by the Drug Enforcement Administration ("DEA") and gave the name of the DEA official in Indianapolis who had approved the Treatment Plan. Dr. Chernoff relied on the Medical Director's representation and did not independently verify approval by the DEA. The Medical Director also assured Dr. Chernoff that the Medical Director would monitor P1's physical response to the prescriptions to include routine urine screens and blood tests.

22. Dr. Chernoff also contacted and personally talked with a senior pharmacist at the pharmacy that would be dispensing the prescriptions, to ensure that the pharmacist

was aware of and had approved of the Treatment Plan. Dr. Chernoff was given that assurance.

23. After receiving these assurances, Dr. Chernoff agreed to participate in P1's treatment by prescribing controlled substances to P1 according to the schedule in the Treatment Plan. Dr. Chernoff would not have prescribed the quantities of controlled substances that were called for in the Treatment Plan, but for the Medical Director's primary role, and the Medical Director's assurances that the DEA had approved the Treatment Plan and P1's repeated assurances that he would follow the Plan. It was Dr. Chernoff's understanding that the Medical Director would provide all aspects of treatment relating to the Treatment Plan.

24. With a few exceptions, P1 followed the schedule of decreased medication in the Treatment Plan. At the conclusion of the Treatment Plan, in approximately November 2001, P1 required significantly less medication to control his pain.

25. Beginning in approximately December 2001, P1 began complaining of increased pain. Dr. Chernoff, in good faith and based upon his extensive exposure to P1 in prior months, believed that P1 had real pain and that it was appropriate for P1 to receive treatment for his pain. From approximately December 2001 to July 2002, Dr. Chernoff prescribed controlled substances to treat P1's chronic pain while he continued to advise P1 to seek treatment from a pain management and/or addiction specialist. Specifically, Dr. Chernoff advised P1 to seek treatment from a pain management and/or addiction specialist on at least the following dates: April 2, 2002, April 3, 2002, April 7, 2002, June 19, 2002, and July 28, 2002.

26. On at least two occasions during this period (February 28, 2002 and March 11, 2002), P1 assured Dr. Chernoff that he had sought treatment from pain management and/or addiction specialists. Dr. Chernoff prescribed controlled substances to P1 at levels that were significantly lower than the previous amounts that P1 was taking during the Medical Director's Treatment Plan in 2001.

27. By the end of July, 2002, Dr. Chernoff ultimately determined that he had exhausted all efforts to try to help P1, as P1 had failed to follow-up on Dr. Chernoff's repeated efforts to arrange for consultations with pain management and addiction specialists. Dr. Chernoff discussed this with P1 and notified him that he needed to terminate the physician-patient relationship. Dr. Chernoff's decision to terminate the relationship occurred months before the DEA first inquired with Dr. Chernoff about his treatment of P1.

28. Even though P1 did not always follow through with his promises regarding additional counseling and was not always compliant with his advice, Dr. Chernoff believed that P1 still needed treatment for his pain. Dr. Chernoff did not want to give up on P1, who needed medical assistance. Prior to the end of July 2002, Dr. Chernoff genuinely feared that he would be abandoning P1 at a time of real need if he terminated the patient relationship.

29. P1 does not represent Dr. Chernoff's typical practice. While Dr. Chernoff was trained and experienced in the treatment and management of pain, since approximately 1996, Dr. Chernoff has not, as a matter of course, treated patients for chronic pain. Because of the extended P1 family and business physician role that Dr. Chernoff took on, Dr. Chernoff provided treatment to P1 while he continued to counsel

and encourage him to seek a specialist for his chronic pain and dependence issues. Dr. Chernoff has had no other similar physician-patient relationships.

30. During the course of P1's treatment, Dr. Chernoff was paid for his services to P1, P1's family, and P1's business, according to the agreements. P1 always paid Dr. Chernoff by check. All payments that Dr. Chernoff received regarding the business were made with checks from the business and the check vouchers noted that Dr. Chernoff was being compensated for providing medical services. Dr. Chernoff was never paid any remuneration in exchange for prescribing drugs for P1.

31. In April of 2002, Dr. Chernoff became aware that P1 was significantly behind in submitting payments for his services in accordance with the agreements made by P1. On April 15, 2002, Dr. Chernoff prepared a handwritten document entitled "Invoice." On the Invoice, Dr. Chernoff brought to P1's attention that he was aware that P1 had obtained some prescriptions by calling the pharmacy directly and without first speaking to Dr. Chernoff. On the Invoice, Dr. Chernoff demanded that P1 stop calling in prescriptions. Dr. Chernoff also listed the total amount that P1 owed for services that had been rendered for all services pursuant to the agreements. The amount of the Invoice reflected charges for previous services that had been rendered pursuant to Dr. Chernoff's agreements with P1. The Invoice was not a request for payment to prescribe drugs and Dr. Chernoff did not intend it as such.

32. P1 did not immediately submit payment in response to the Invoice; nevertheless, Dr. Chernoff continued to treat P1 and his family. In fact, at the end of the physician-patient relationship in July 2002, P1 had failed to pay to Dr. Chernoff the full

amount that was agreed upon for the medical services Dr. Chernoff rendered. The substantial debt remains today and Dr. Chernoff does not expect to ever collect it.

33. During the course of treatment, Dr. Chernoff's office did not document in P1's medical chart all of the prescriptions that Dr. Chernoff issued to P1.

34. Dr. Chernoff communicated with the Medical Director regarding P1's treatment progress, urine screens, and blood tests. For example, before the Treatment Plan began, the Medical Director assured Dr. Chernoff that he had already tested P1's liver function, which showed a good tolerance to the dosages called for in the Treatment Plan. After the Treatment Plan was underway, Dr. Chernoff received verbal reports from the Medical Director that P1's liver function tests continued to show good tolerance to the prescriptions. Dr. Chernoff did not document in the medical record his discussions with the Medical Director.

35. There was no evidence that P1 suffered from any liver problems due to drugs prescribed by Dr. Chernoff.

36. In September of 2002 (months after Dr. Chernoff had taken the initiative to terminate P1 as a patient), DEA agents questioned Dr. Chernoff regarding his treatment of P1. The DEA agent insisted that Dr. Chernoff voluntarily surrender his DEA registration for one year and gave Dr. Chernoff assurances that if he did so, then no further action would be taken by DEA. Dr. Chernoff immediately cooperated with all of the DEA's requests for information and documents and also voluntarily surrendered his DEA registration in September 2002.

37. DEA officials conducted a thorough review of Dr. Chernoff's treatment of P1 and in 2005 the matter was closed with payment by Dr. Chernoff of an agreed civil penalty.

38. Dr. Chernoff practiced for more than five years without his DEA registration. On July 16, 2007, the DEA issued Dr. Chernoff an unlimited registration to prescribe controlled substances. Dr. Chernoff has not yet applied for reinstatement of his Indiana controlled substances registration, so he is not currently prescribing controlled substances and has not done so for the past five and a half years.

39. P1 was a demanding and strong-willed patient. In hindsight, Dr. Chernoff realizes that as the physician, he should have exerted more control in the physician-patient relationship. To obtain additional insight into issues that can occur when prescribing controlled substances, Dr. Chernoff voluntarily attended a seminar at Vanderbilt University from March 26 through 28, 2003, entitled *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*. Dr. Chernoff earned 21 hours of category one continuing medical education credits for attendance at this seminar.

40. In order to assure this Board of his competency and knowledge, Dr. Chernoff voluntarily submitted to a competency evaluation at the Center for Personalized Education for Physicians ("CPEP") on April 10 and 11, 2006. According to the CPEP Assessment Report, an evaluator found Dr. Chernoff's "knowledge of faciofacial surgery exemplary" and that "he displayed logical and organized thought processes."

41. Dr. Chernoff has also voluntarily entered into a structured education plan at his expense with CPEP, which will further Dr. Chernoff's education and will also reassure this Board of Dr. Chernoff's competency and his continued commitment to

provide quality care to his patients. CPEP has prepared the individualized education plan, which began in January of 2008.

42. As part of the CPEP plan, a physician approved by CPEP will serve as Dr. Chernoff's practice preceptor for approximately nine to twelve months. The preceptor will observe Dr. Chernoff in his office setting to provide insight into Dr. Chernoff's practice style and interactions with patients. The preceptor will also be reviewing, both pre and post operatively, a certain number of Dr. Chernoff's patient charts each week and each month. On a weekly and monthly basis, the preceptor will meet with Dr. Chernoff for at least two hours each session to provide feedback and educational opportunities to Dr. Chernoff, based on the preceptor's observations and chart reviews. The preceptor will report all activities and impressions to CPEP.

43. In addition to the preceptor, the CPEP plan provides that Dr. Chernoff will attend an approved documentation seminar, which includes a follow-up component. Dr. Chernoff plans to enroll in the CPEP documentation seminar, which includes three follow-up reviews of patient charts after he attends the seminar. The seminar provides for eight (8) Category 1 credits.

44. Since he concluded his treatment of P1 more than five years ago, Dr. Chernoff has practiced without incident. He has had no malpractice complaints. Dr. Chernoff continues to provide pro bono service to the community. Officers with the Indianapolis Metropolitan Police contact him when they are working with victims of violence who have suffered from injuries and cannot afford the services of a plastic and reconstructive surgeon. Dr. Chernoff has provided his services pro bono to rape victims,

victims of domestic violence, and a severely disfigured survivor of the Oklahoma City bombing.

STIPULATED CONCLUSIONS OF LAW

1. Dr. Chernoff's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B), in that, Dr. Chernoff has failed to keep abreast of current professional theory or practice by failing to sufficiently document P1's medical history.

2. Dr. Chernoff's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B), in that, Dr. Chernoff has failed to keep abreast of current professional theory or practice by failing to sufficiently document his evaluations and treatment of P1 prior to prescribing controlled substances to P1.

3. Dr. Chernoff's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B), in that, Dr. Chernoff has failed to keep abreast of current professional theory or practice by not obtaining copies of the lab tests that were performed to monitor P1's condition, in addition to obtaining verbal reports of the lab results.

ULTIMATE FINDINGS OF FACT

Dr. Chernoff's violation is cause for disciplinary sanctions that may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or revocation and a fine up to the amount of \$1,000 per violation as detailed at Ind. Code § 25-1-9-9.

ORDER

1. The Board has ongoing jurisdiction over Dr. Chernoff and the subject matter of this disciplinary action.

2. This Agreement is executed voluntarily by both parties.

3. Dr. Chernoff and the Petitioner voluntarily waive their rights to a public hearing on the Complaint and all other proceedings in this action to which either party may be entitled by law, including judicial appeal or review.

4. Dr. Chernoff has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

5. Dr. Chernoff's Indiana medical license shall be placed on probation for a period of three (3) years. The terms of probation are as follows:

A. Dr. Chernoff has enrolled in and agrees to complete an Educational Intervention Plan designed and administered by the CPEP. CPEP shall be considered a peer review committee for purposes of Ind. Code § 34-30-15-1. Pursuant to Ind. Code § 34-30-15-8, CPEP records may be disclosed to the Board.

B. Dr. Chernoff agrees that CPEP may provide the Board with copies of all Educational Intervention Progress Reports during the Educational Intervention Plan.

C. As part of the CPEP Educational Intervention Plan, Dr. Chernoff agrees to submit to a CPEP Post-Education Evaluation at his expense.

D. As part of the CPEP Educational Intervention Plan, an independent physician, referred to as a "Preceptor", will review Dr. Chernoff's patient charts.

E. It is anticipated that the CPEP Educational Intervention Plan will include a documentation course, a subsequent review of documentation by CPEP, and the

mandatory adoption of a charting system. Dr. Chernoff specifically agrees that he will implement a charting system and medical record policy in consultation with CPEP and the physician who serves as his preceptor for the Educational Intervention Plan. Dr. Chernoff agrees that his charting system and office policy will include the following components:

- (1) A policy on the time within which all office and operative notes must be dictated and transcribed;
- (2) The adoption of an office record format that will include subjective findings, objective findings, an assessment, and a plan, and will also include medical history, physical examination, and vital signs;
- (3) Consent forms;
- (4) A procedure for office staff to review consent forms for all required signatures prior to surgery;
- (5) Creation of a separate medication list in the chart. This is to ensure that Dr. Chernoff can quickly determine a list of all patient medications and the dates and dosages of prescriptions; and
- (6) Forms for post-operative instructions.

F. Petitioner agrees that if Dr. Chernoff's Indiana controlled substance registration is reinstated, Dr. Chernoff shall be authorized to prescribe controlled substances subject to the below list of conditions:

- (1) Dr. Chernoff will not engage in the treatment of pain unless it is related to surgery or procedures that he provides;

(2) Dr. Chernoff agrees not to prescribe, order, dispense, or administer controlled substances to himself, family members or friends; and

(3) Dr. Chernoff agrees to submit to a review of his controlled substance prescribing. The review shall be performed by the CPEP preceptor or by another qualified physician approved by the Board. Each month Dr. Chernoff shall maintain a list of all patients to whom he has prescribed controlled substances. Each month the reviewer shall select and review the records of ten percent of the patients to whom Dr. Chernoff has prescribed controlled substances. Dr. Chernoff shall provide copies of all relevant charts to the reviewer. The reviewer shall submit a written report to the Board that includes a summary of the amounts of controlled substances prescribed by Dr. Chernoff and an opinion as to whether Dr. Chernoff has met all applicable standards in prescribing the controlled substances. This review shall be considered a peer review activity.

G. Dr. Chernoff agrees to adopt a written policy for his office staff regarding the prescribing of controlled substances. The policy shall include the following:

(1) Rules regarding the issuance of controlled substance prescriptions, in accordance with federal law and regulations;

(2) Procedures for refills of controlled substances;

(3) Procedures for phone-in requests for refills of controlled substances;

(4) A prohibition of approving refill requests in Dr. Chernoff's absence; and

(5) Documentation in the patient record of all phone calls concerning controlled substances.

H. Dr. Chernoff will not treat chronic pain, which shall be defined as follows: "a state in which pain persists beyond the usual course of an acute disease or healing of an injury, or that may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years." If a patient has chronic pain, Dr. Chernoff shall refer the patient to a physician who specializes in the treatment of pain.

I. Even though he will not treat chronic pain, Dr. Chernoff agrees to adopt a written policy regarding the use of controlled substances for the treatment of pain. The policy shall include the following:

(1) Guidelines to identify patients who may be at risk for substance abuse or dependence;

(2) The establishment of rules for the number and frequency of refills; and

(3) The periodic review and monitoring of the success of the treatment with controlled substances.

J. Within the period of probation, Dr. Chernoff agrees to pay a fine in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) to the Indiana Professional Licensing Agency.

K. Within the period of probation, Dr. Chernoff agrees to complete twenty (20) hours of continuing medical education in the area of medical recordkeeping.

L. Within the period of probation, Dr. Chernoff agrees to perform twenty (20) hours of community service. Dr. Chernoff shall submit independent proof of the completion of the community service to the Board.

6. Dr. Chernoff shall petition for withdrawal of probation and request a hearing at the time that he completes all of the terms of this probationary order.

7. Dr. Chernoff understands that failure to comply with the Board's order may result in the Petitioner requesting an emergency suspension of Dr. Chernoff's license, as well as possible reinstatement of the initial action giving rise to this resolution, an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to Ind. Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Dr. Chernoff's license.

8. The parties agree that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Dr. Chernoff's license arising out of facts and circumstances surrounding the Complaint filed on February 6, 2006 and the Amended Complaint filed on March 3, 2006.

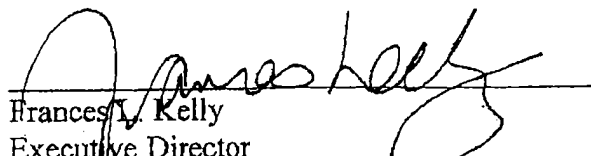
9. Dr. Chernoff agrees to pay the cost for the transcription of the record before the Board regarding the presentation of this Agreement.

10. The parties agree to the continuing jurisdiction of the Board

So ORDERED, ADJUDGED, and DECREED, this 12 day of March,

2008.

MEDICAL LICENSING BOARD OF INDIANA


Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies To:

William Chernoff, M.D.
Chernoff and Associates
9002 N Meridian Street Ste 205
Indianapolis, IN 46260
CERTIFIED MAIL 7006 2760 0003 4661 2129
RETURN RECEIPT REQUESTED

Larry A. Mackey/Stacy L. Cook
Counsel for Dr. Chernoff
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, IN 46204

Elizabeth E. Kiefner, Deputy Attorney General
Office of the Attorney General
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770

BEFORE THE INDIANA MEDICAL
LICENSING BOARD
CAUSE NUMBER: 2006 MLB 0003

STATE OF INDIANA,

Petitioner,

v.

WILLIAM GREGORY CHERNOFF, M.D.

Lic. Number: 01040295A, 01040295B

Respondent.

FILED

MAR 03 2006

Indiana Professional
Licensing Agency

NOTICE OF FILING OF AMENDED COMPLAINT

Comes now the State of Indiana, by counsel, Deputy Attorney General Daniel J. Cavallini, on behalf of the Office of the Attorney General ("Petitioner"), and pursuant to Ind. T.R. 15(A), files its Amended Complaint against the medical license of William Gregory Chernoff, M.D. ("Respondent"), and in support thereof states:

1. On or about February 6, 2006, Petitioner filed its Complaint against the Respondent.
2. A scrivener's error was later discovered.
3. The scrivener's error was corrected in the Amended Complaint.
4. Pursuant to Ind. T.R. 15(A), Petitioner may amend their pleading once as a matter of course within thirty (30) days after the original pleading has been served.

WHEREFORE, the Petitioner files herewith their Amended Complaint against the medical license of William Gregory Chernoff, M.D.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana

By: 

Daniel J. Cavallini

Deputy Attorney General

Attorney No.:24576-49

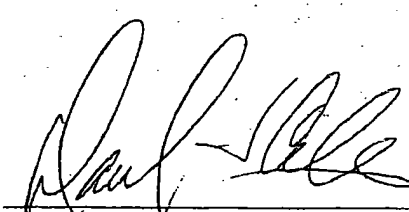
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Notice of Filing of Amended Complaint" has been served upon the Respondent and Respondent's counsel at the addresses listed below, by United States mail, first class, postage prepaid, on this 2nd day of March, 2006:

William Gregory Chernoff, MD
9002 North Meridian Street, Suite 205
Indianapolis, Indiana 46260

Larry Mackey, Esq.
Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204
Counsel for Respondent

Harold R. Bickham, Esq.
Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204
Counsel for Respondent


Daniel J. Cavallini

Deputy Attorney General

Deputy Attorney General Daniel J. Cavallini
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204-2770
(317) 233-3972

BEFORE THE INDIANA MEDICAL
LICENSING BOARD
CAUSE NUMBER: 2006 MLB 0003

STATE OF INDIANA,

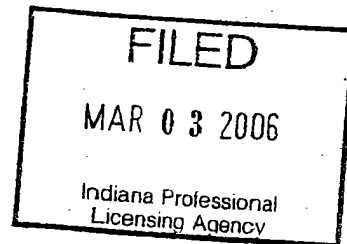
Petitioner,

v.

WILLIAM GREGORY CHERNOFF, M.D.

Lic. Number: 01040295A, 01040295B

Respondent.



AMENDED COMPLAINT

The State of Indiana, by counsel, Deputy Attorney General Daniel J. Cavallini, on behalf of the Office of the Attorney General ("Petitioner"), and pursuant to IND. CODE §25-1-7-7, IND. CODE §25-1-5-3, IND. CODE §25-22.5-2-7 *et. seq.*, the Administrative Orders and Procedures Act, IND. CODE §4-21.5-3 *et. seq.*, and IND. CODE §25-1-9-1 *et. seq.*, files this Amended Complaint against the medical license of William Gregory Chernoff, M.D. ("Respondent"), and in support thereof alleges and states:

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Indiana Medical Licensing Board ("Board") pursuant to IND. CODE §25-1-7 *et. seq.*
2. The Board is charged with the duty and responsibility of regulating the practice of medicine pursuant to IND. CODE §25-22.5-2-7.
3. The Board is empowered to hold disciplinary hearings pursuant to the authority of IND. CODE §4-21.5-3 *et. seq.*

FACTS

1. Respondent's address on file with the Board is 9002 North Meridian Street, Suite 205, Indianapolis, Indiana 46260, and is a licensed physician in the State of Indiana holding license number 01040295A and CSR license number 01040295B.
2. Patients 1, 2, 3, 4, and 5 ("P1", "P2", "P3", "P4", and "P5", respectively) were patients of the Respondent.
3. Respondent failed to obtain adequate and/or complete patient medical history information.
4. Respondent saw P1 in his professional capacity between approximately April, 2001 to July 2002.
5. Over an extended period of time, on numerous occasions, Respondent authorized prescriptions for controlled substances for P1 with no documented medical justification.
6. Respondent became aware of P1's drug dependence, and continued to prescribe controlled substances to P1.
7. Respondent offered to serve as an "intermediary" for the purposes of a proposed detoxification program for P1, while continuing to prescribe large amounts of controlled substances for P1.
8. Respondent was not licensed by the United States Drug Enforcement Administration ("DEA") to administer narcotic treatment programs.
9. Respondent knew that P1 was furthering his addiction to controlled substances.
10. P1 attended a pain management/addiction program in San Diego, California.

11. Upon P1's return from the program, Respondent, aware that P1 had just returned from a pain management/addiction program, and continued to prescribe large quantities of controlled substances to P1 with no documented medical justification.
12. On several occasions, Respondent failed to document medical progress or prescriptions in P1's medical chart.
13. Respondent discussed P1's medical history and treatment with individuals who were not medical professionals without the apparent consent of P1.
14. Respondent authorized an employee to sign his name on controlled substance prescriptions in his absence.
15. Respondent authorized an employee to sign his name on DEA Schedule 2 controlled substance order forms in his absence.
16. Respondent, having prescribed large quantities of Hydrocodone and Norco to P1, failed to obtain and/or conduct proper follow-up testing and monitoring for P1.
17. Respondent received remuneration from P1 that was far in excess of what is reasonable for medical services rendered.
18. Respondent attempted to extract an additional \$125,000 from P1 for procuring controlled substances.
19. Respondent failed to have sufficient controls in his office to prevent P1 from procuring controlled substances in Respondent's name.
20. Respondent was aware that Respondent procured controlled substances in Respondent's name, but failed to stop it.

21. Respondent saw P2 in his professional capacity between approximately April, 1999 to August, 2002.
22. Respondent prescribed large quantities of controlled substances to P2.
23. Respondent prescribed large quantities of controlled substances to P2 with no documented medical justification.
24. Respondent neglected to evaluate P2 after an alleged fall; however, Respondent prescribed additional quantities of controlled substances for P2.
25. Respondent saw P3 in his professional capacity between approximately March, 2001 to December, 2001.
26. Respondent prescribed controlled substances to P3 on several occasions, despite noting that P3 was "progressing well" from a previous procedure.
27. Respondent admitted to investigators that he had not seen P3 for the medication refills, and that these were refilled at the request of P2, who was the spouse of P3.
28. Respondent knew or should have known, based on the large quantities of controlled substances he had prescribed for P2, that the controlled substances prescribed for P3 at P2's request were, in fact, intended for P2.
29. Respondent's last medical record entry for P4 was on or about March 1, 1995.
30. Respondent saw P4 in his professional capacity between approximately November, 2000 to August, 2002, and failed to document medical progress notes.
31. Respondent prescribed large amounts of controlled substances and prescription drugs to P4 with no documented medical justification.
32. Respondent saw P5 in his professional capacity between approximately October, 1998 to September, 2002.

33. Respondent prescribed large amounts of controlled substances to P5, with no apparent documented medical justification.
34. On or about September 25, 2002, Respondent surrendered his DEA certificates, specifically BC3619270 and BC5767845.
35. Respondent, through counsel, responded to inquiries from the Office of the Attorney General concerning the initial allegations.
36. In his response, Respondent indicated that, based on several life factors, he was easily manipulated, almost "pathologically anxious to please" and accommodate others, and desired to avoid being the source of conflict.
37. On or about October 6, 2005, the United States of America, through the Office of the United States Attorney, filed a civil complaint (attached hereto) against the Respondent alleging numerous violations of federal law, which spanned across approximately one hundred fifty one (151) separate acts.
38. On or about September 8, 2005, a settlement agreement (attached hereto) was reached between the Respondent and the United States of America, wherein the Respondent was required to pay a civil fine of one hundred thousand dollars (\$100,000.00).

COUNT I

39. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P1 controlled substances over an extended period of time without proper documentation of a medical need for controlled substances of the strengths and quantities prescribed.

COUNT II

40. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by failing to adequately document P1's medical history.

COUNT III

41. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by failing to obtain and/or conduct proper follow-up testing and monitoring for P1 after prescribing large quantities of Hydrocodone, Norco, and other controlled substances to P1.

COUNT IV

42. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 4-6-10(3), by willfully performing an act likely to deceive or harm the public, which may include, but not be limited to, prescribing or administering a drug for other than generally accepted therapeutic reasons.

COUNT V

43. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 4-6-10(4), by willfully performing an act likely to deceive or harm the public, which may include, but not be limited to, negligence in the practice of medicine, by prescribing large quantities of controlled substances to P1.

COUNT VI

44. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-5, by failing to exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice, by prescribing large quantities of controlled substances to P1 without indication of medical necessity.

COUNT VII

45. Assuming arguendo, to the extent Respondent undertook a legitimate detoxification program for the benefit of P1, Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-5, by failing to exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice by failing to monitor and track the large quantities of controlled substances prescribed to P1.

COUNT VIII

46. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 21 U.S.C.A. § 823(g)(1), by dispensing narcotic drugs to individuals for maintenance treatment or detoxification treatment without obtaining a separate registration for that purpose.

COUNT IX

47. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-2, by failing to maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment, and prognosis, and of all records relating thereto, about which the practitioner may learn or otherwise be informed during the course of, or as a result of, the patient-practitioner relationship.

COUNT X

48. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P2 controlled substances when becoming apprised of an injury to P2 shortly after surgery, and not requesting P2 present to Respondent's office for examination.

COUNT XI

49. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P2 controlled substances on numerous occasions without requesting an examination of P2, without adequately reviewing P2's medical history.

COUNT XII

50. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(C) in that Respondent has become unfit to practice due to a physical or mental disability.

COUNT XIII

51. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 4-6-10(4), by willfully performing an act likely to deceive or harm the public, which may include, but not be limited to, negligence in the practice of medicine, by continually prescribing controlled substances for P2 without documented medical justification.

COUNT XIV

52. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P3 controlled substances over an extended period of time without proper documentation of a medical need for controlled substances of the strengths and quantities prescribed.

COUNT XV

53. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P3 controlled substances over an extended period of time while failing to request an examination of P3.

COUNT XVI

54. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-5, by failing to exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice, by prescribing large quantities of controlled substances to P3 without indication of medical necessity.

COUNT XVII

55. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P4 controlled substances over an extended period of time while failing to document patient consults or visits.

COUNT XVIII

56. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-5, by failing to exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice, by prescribing controlled substances to P4 without a documented indication of medical necessity.

COUNT XIX

57. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 4-6-10(3), by willfully performing an act likely to deceive or harm the public, which may include, but not be limited to, prescribing or administering a drug for other than generally accepted therapeutic reasons, by failing to keep current medical records on P4 while prescribing numerous controlled substances.

COUNT XX

58. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice by prescribing P5 controlled substances over without proper documentation of a medical need for controlled substances of the strengths and quantities prescribed.

COUNT XXI

59. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-5, by failing to exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice, by prescribing controlled substances to P5 without a documented indication of medical necessity.

COUNT XXII

63. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(9) in that Respondent has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitué or addict.

COUNT XXIII

60. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory or practice, to wit: 844 IAC 5-2-9, by charging fees in excess of what is reasonable and beyond those services actually rendered.

COUNT XXIV

61. Respondent's conduct constitutes a violation of IND. CODE § 25-1-9-4(a)(1)(B) in that Respondent engaged in fraud or material deception in the course of professional services or activities.

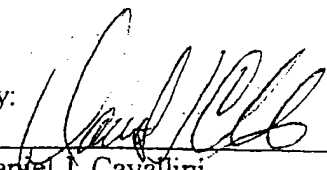
WHEREFORE, Petitioner demands an order against the Respondent that:

1. Imposes the appropriate disciplinary sanction, up to and including revocation of licensure;
2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case; and;
3. Provides any further relief as the Board deems just and proper.

Respectfully submitted,

Steve Carter,
Attorney General of Indiana

By:


Daniel J. Cavallini

Deputy Attorney General

Attorney No.: 24576-49

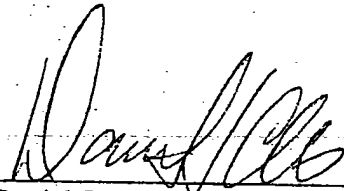
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Amended Complaint" has been served upon the Respondent and Respondent's counsel at the addresses listed below, by United States mail, first class, postage prepaid, on this 3rd day of March, 2006:

William Gregory Chernoff, MD
9002 North Meridian Street, Suite 205
Indianapolis, Indiana 46260

Larry Mackey, Esq.
Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204
Counsel for Respondent

Harold R. Bickham, Esq.
Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204
Counsel for Respondent


Daniel J. Cavallini
Deputy Attorney General

Deputy Attorney General Daniel J. Cavallini
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204-2770
(317) 233-3972